

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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THE TRUSTEES OF THE SOFT DRINK AND  
BREWERY WORKERS UNION, LOCAL 812  
RETIREMENT FUND,

Plaintiffs,

ORDER ADOPTING REPORT  
AND RECOMMENDATIONS

- against -

2:20-cv-2317 (DRH) (SIL)

DITMARS DISTRIBUTORS, INC.,

Defendant.

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**HURLEY, Senior District Judge:**

Presently before the Court is the Report and Recommendation of Magistrate Judge Steven I. Locke, dated June 30, 2021 (the “R&R” [DE 16]), recommending that the Court grant in part and deny in part Plaintiffs The Trustees of the Soft Drink and Brewery Union, Local 812 Retirement Fund’s motion for default judgment and award Plaintiffs \$616,705.91 in damages. Judge Locke found that (1) Plaintiffs properly established unpaid withdrawal liability under the Employment Retirement Income Security Act (“ERISA”) and (2) demonstrated (a) actual damages in the amount of \$295,391.00, (b) entitlement to pre-judgment interest through June 30, 2021 (the date of the R&R), in the amount of \$159,196.60, with additional interest to be calculated through the date of the judgment at a rate of \$145.67 per day, (c) liquidated damages in an amount equal to the pre-judgment interest award, (d) attorney’s fees in the amount of \$2,440.00; and (e) costs in the amount of \$527.31.

More than fourteen (14) days have passed since service of the R&R and no objections have been filed. Pursuant to 28 U.S.C. § 636(b) and Federal Rule Civil

Procedure 72, this Court has reviewed the R&R for clear error. Having found no clear error, the Court concurs in both the R&R's reasoning and its result. The Court adds that post-judgment interest at the federal rate is "mandatory" under 28 U.S.C. § 1961(a) and accrues from the date of the entry of judgment until Defendant has satisfied the judgment. *Tru-Art Sign Co. v. Local 137 Sheet Metal Workers Int'l Ass'n*, 852 F.3d 217, 223 (2d Cir. 2017). Accordingly, for the reasons stated in Judge Locke's R&R,

**IT IS HEREBY ORDERED** that Plaintiffs' motion for default judgment is granted in part and denied in part, and Plaintiffs are awarded (i) actual damages in the amount of \$295,391.00, (ii) pre-judgment through June 30, 2021 in the amount \$159,196.60, with additional interest to be calculated through the date of the judgment at a rate of \$145.67 per day, (iii) liquidated damages in an amount equal to the pre-judgment interest award, (iv) attorney's fees in the amount of \$2,440.00, (v) costs in the amount of \$527.31, and (vi) post-judgment interest at the federal rate.

The Clerk of Court is respectfully directed to enter judgment accordingly and to terminate the action.

**SO ORDERED.**

Dated: Central Islip, New York  
July 30, 2021

s/ Denis R. Hurley  
Denis R. Hurley  
United States District Judge